The Court celebrates 20 years since the accession of 10 States to the European Union: A New Constitutional Moment for Europe

On 1 May 2004, ten new Member States joined the European Union: the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This was the largest single enlargement in terms of both peoples and countries. Moreover, this accession brought to the common EU legal space a great variety of national histories, legal cultures and traditions. In view of the degree of integration that the EU had achieved by 2004, on the one hand, and the diversity that the ten new Member States represented, on the other hand, the importance of the moment cannot be overstated. It is fair to say that in itself the 2004 enlargement was a constitutional moment – a paradigm shift – that united Eastern and Western Europe into a common constitutional project. The European Union spread its values and principles to parts of Europe with particularly complex histories. While the ten new Member States entered the EU with a particular determination and hope for freedom, justice and prosperity, that determination would be tested by important challenges.

The European Union is based on loyalty and cooperation among Member States and the primacy of EU law. It also recognises the contribution of diversity of national traditions to the common project. Recital 6 of the TEU expresses the desire 'to deepen solidarity between [..] peoples while respecting their history, their culture and their traditions'.

This conference will celebrate the 20th anniversary of the 2004 enlargement, by looking at the contribution that it has had in moving the EU integration project forward. Has it influenced a greater consolidation of EU law, as well as a more detailed regulation of some areas falling within the competence of the EU? Or, on the contrary, has it brought about new obstacles to the application of EU law? 20 years down the road, what are the lessons learned on the widening and deepening of the European integration project? Has the largest single enlargement with its successes and challenges brought about a stronger Union of European citizens?

To that end, this conference will explore three different topics.

First session. *The story of the largest single enlargement of the EU*

After the fall of the Berlin Wall, fresh winds were blowing across Europe. Almost immediately, a number of the States to the East and South, especially those that had been released from the grips of totalitarianism, voiced their desire to join the common internal market based on the four economic freedoms of the EC and fair competition. In anticipation of the enlargement of the European Union (Community at the time) certain criteria (known as the Copenhagen criteria), that States aspiring for membership must meet, were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. This set in motion one of the biggest reform processes – a huge building site – in Europe, whereby aspiring States were committed to achieve "(1) stable institutions guaranteeing **democracy**, **the rule of law**, **human rights** and respect for and protection of **minorities**; (2) a functioning market economy and the capacity to cope with **competition** and market forces in the EU; (3) the ability to take on and implement effectively the obligations of membership, including the aims of political, **economic and monetary union**."

Apart from massive legislative and institutional work carried out by the aspiring States, that reform process also required a fundamental transformation in the minds and the culture of the peoples concerned. 20 years later, in case C-896/19, *Repubblika*,[1] the Court of Justice identified the principle that States should avoid any regression with regard to upholding the value of the rule of law. By looking back at the last 20 years, this session will address the complexities of the 2004 enlargement and the contribution of the ten new Member States to the development of EU law, which underline the importance of placing the protection of common values at the centre of each step of the European integration project.

Second Session. *On common European values*

Second, the conference will then look at the contribution that the 2004 enlargement has had in developing the EU as a 'Union of values'. The values contained in Article 2 TEU are shared and cherished by all European citizens as they form part of their common heritage. They define 'the very identity of the [EU] as a common legal order'.[2] That identity has not been built by simply incorporating traditional elements forming part of national identity, such as language, history and

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[1] Judgment of 20 April 2021, *Repubblika*, C-896/19, EU:C:2021:311, para. 64.

[2] Judgment of 16 February 2022, *Hungary* v *Parliament and Council*, C-156/21, EU:C:2022:97, para. 232.

tradition into that legal order. Europeans may speak different languages, have different beliefs, have different ideas as to what family means and yet, we, Europeans share a sense of belonging to a community of values. It is the shared view among Europeans that the political majority of the moment may not discriminate against minorities; that we must have a government of laws, not men; and that we must enjoy a personal sphere of self- determination free from public interferences, that makes the EU what it is today.

The purpose of the second panel is therefore to have a close look at the values contained in Article 2 by examining the following questions: what is the legal nature of those values? What is the relationship between those values and the structural principles of EU law such as the principles of primacy, mutual trust, effectiveness and loyal cooperation? What is the role of the EU Courts and that of national judiciaries in enforcing those values? Do values allow room for national diversity? How do EU values and the obligation to respect the national identity of the Member States interact with one another?

Third Session. *EU economic regulation*

Third, as underlined by the Copenhagen criteria, economic integration represented both an objective and a challenge for the new Member States. Ensuring convergence between the economies of the new Member States and the rest of the EU and compliance with the EU's economic regulation was indeed of paramount importance for advancing political integration and required considerable reforms. The economic and financial benefits resulting from membership were the driving force for many of those reforms, both at substantive and institutional levels. On the one hand, EU funds had a critical role in regards to those reforms and, in order to ensure that Member States respect the "rules of the game" and abide by the rule of law, they were made subject to conditionality mechanisms in different areas of law. On the other hand, competition law and sectoral legislation (especially in network industries and banking) had to be applied by new Member States, often in a newly designed decentralised fashion – as for instance set out by Regulation 1/2003 for competition law – that implied the empowerment of new national competition or regulatory authorities.

Against this background, the purpose of the third session, which is comprised of three main sub-themes, is to explore how during the last twenty years, under the supervision of the EU Courts, EU law has ensured the coherence and convergence of national economies in the EU and, particularly, those of the new Member States, by addressing the following questions:

- Concerning EU funds, how have the conditions attached to the granting of structural funds

helped to achieve convergence and solidarity between new and old Member States? How have the new Member States applied their obligation to fight against fraud and corruption?

- Concerning the EU's economic regulation, what was the impact of competition law and state aid law in driving the economies of the new Member States towards modernisation and towards achieving an equal level playing field within the internal market? What steps had to be undertaken for setting up independent and resourceful national competition or regulatory authorities? After 20 years of practice, how is the cooperation between the Commission and national authorities taking place and what are the current challenges? What is the extent of the EU Courts' judicial review on the functioning and decisions of national competition or regulatory authorities?

- At a horizontal level, what has been the role of the EU Courts, through preliminary rulings or direct actions (in funding, competition and economic regulation cases), in ensuring that the Commission, national courts and national regulatory authorities work together in an effective fashion and without encroaching upon their respective competences?